



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF WATER QUALITY

m/023/007

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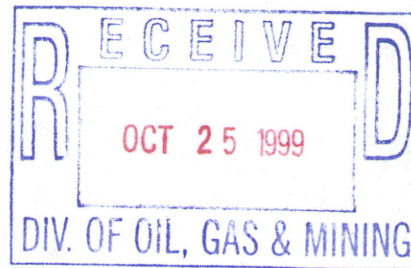
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October 19, 1999

CERTIFIED MAIL
(Return Receipt Requested)

Gene Webb, Manager
North Lily Mining Company
1800 Glenarm Place, Suite 210
Denver, Colorado 80202

Dear Mr. Webb:

Subject: Notice of Violation and Order, Docket No. UGW2003, Failure to Maintain Discharge
Minimization Technology (DMT) and Meet Reporting Requirements

Transmitted herewith is a Notice of Violation (NOV) and Order, Docket No. UGW2003 from the Utah Water Quality Board for your immediate attention. This Order is a result of failure to maintain DMT in solution ponds and failure to meet reporting requirements resulting in non-compliance with Ground Water Discharge Permit, UGW230001, issued to North Lily Mining Company on December 9, 1997. The solution ponds are part of the Silver Heap Leach Facility in Eureka, Utah. The violations are described in the attached document.

We are strongly recommending your immediate attention to this matter as conditions at your site have deteriorated to the point that water resources are under an immediate threat. Delays in addressing this situation could result in additional actions by this agency. Prompt submittal of documents according to the schedule in the enclosed NOV is required.

If you have any questions or wish to discuss this NOV and Order, please contact Beth Wondimu of this office at (801) 538-6084.

Sincerely,

Utah Water Quality Board

Don A. Ostler, P.E.
Executive Secretary

DAO:BW/sal

Enclosure (1)

cc: Central Utah Health Department (W/encl)
Dianne Nielson, Executive Director, DEQ (W/encl)
Fred Nelson, Assistant Attorney General (W/encl)
Roger Foisy, District Engineer (W/encl)
Wayne Hedberg, Division of Oil, Gas and Mining (W/encl)
Tom Bingham, Mining Association of Utah (W/encl)

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UTAH WATER QUALITY BOARD

IN THE MATTER OF	§	DOCKET NUMBER UGW2003
NORTH LILY MINING COMPANY	§	NOTICE OF VIOLATION
EUREKA, UTAH 84628	§	AND ORDER
	§	

STATUTORY AUTHORITY

The **UTAH WATER QUALITY BOARD** (hereinafter "the **BOARD**") issues this Notice of Violation and Order under the *Utah Water Quality Act* (the *ACT*) including Sections 19-5-104, 19-5-106, 19-5-107, 19-5-111 and 19-5-115, *Utah Code Annotated (UCA)*, and in accordance with the *Utah Administrative Procedures Act, UCA 63-46b-1, et seq.*

FACTS

1. **North Lily Mining Company** (hereinafter **NORTHLILY**) owns the Silver City Heap Leach Facility. Active leaching of the ore at the facility was terminated in 1995.
2. Ground Water Discharge Permit No. UGW230001 was issued by the Executive Secretary of the BOARD on December 9, 1997 which requires:
 - A. Maintenance of liner systems in the heap leach pad and in all three solution ponds (pregnant pond, barren pond and overflow pond). (Part I.B.5)
 - B. Water level in solution ponds to not exceed a free board of two feet from the top of the pond. (Part I.B.5)
 - C. The leakage rate in the liner systems be 200 gallons per acre per day or less in the heap leach pad and in the solution ponds to demonstrate Discharge Minimization Technology(DMT) performance. (Part I.B.5)
 - D. Semi-annual sampling of the heap leach effluent be performed by a laboratory certified by the State of Utah in accordance with UAC R317-6-6.3 (12). (Part I.C.1)
 - E. Analytical results of heap leach effluent sampling, for parameters listed in Part I.C, be reported to Utah Division of Water Quality semi-annually according to the schedule

listed under Part I.E.1 of the permit.

- F. Monthly visual inspection be conducted of the leak detection system for the presence of fluids. If fluids are present in the system, the permit requires the volume of fluid to be measured and reported to the DWQ quarterly . (Part I.C.3)

3. Groundwater Discharge Permit UGW230001, Part I.D.1, states

“....In the event the permittee fails to maintain the Heap Leach Pad Cover or the Lined Drain field in compliance with any of the requirements of Part I.B.4 of this permit the permittee shall be in violation of this permit unless the affirmative defense provisions of Part III.G are satisfied. The permittee shall submit to the Executive Secretary a notification and description of the failure in accordance with Part II.I 1 and 2.”

4. UCA 19-5-107 (1)(a) states “ Except as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, *or to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution.*”

FINDINGS

1. As of September 30, 1999, permit reporting requirements have not been met for any reporting period since issuance of the permit (December 9, 1997).
2. As of September 30, 1999, the only closure activity which has occurred was an attempt to regrade the facility in preparation for final cover. The regrading is considered unsuccessful since there have been slope failures which caused the heap materials to slide downslope and off the heap leach pad.
3. **NORTH LILY** was notified in correspondence dated February 12, 1998, to undertake the necessary closure activities and submit a plan for short term disposition of excess water from the heap leach facility.
4. Representatives from the Department of Environmental Quality and Department of Natural Resources conducted an inspection on September 11, 1999, which revealed there is a liner system failure in both the solution ponds and the heap leach. This liner failures provide a means for discharge of heap leach fluids to the subsurface.
5. The September 11, 1999, inspection also revealed evidence that several surface water releases to a culvert, located west of heap leach facility, have occurred.

6. North Lily has not submitted notification for the liner system failures as required by Part II.I 1 and 2 of the Permit.

VIOLATIONS

Based on the foregoing **FACTS** and **FINDINGS**, **NORTH LILY** is in violation of the following:

1. Groundwater Discharge Permit, No.UGW230001, Part I.B, for failure to maintain Discharge Minimization Technology (DMT).
2. Groundwater Discharge Permit, No.UGW230001, Part I.C, for failure to monitor heap leach fluids in accordance with the schedule listed in the permit.
3. Groundwater Discharge Permit, No.UGW230001, Part I.C, for failure to monitor the leakage collection system.
4. Groundwater Discharge Permit, No.UGW230001, Part I.C, for failure to submit reports as required by the permit.
5. UCA 19-5-107 (1)(a), for placing or causing to be placed wastes in a location where there is probable cause to believe it will cause pollution.
6. UCA 19-5-107(3)(a), for discharging heap leach fluid to surface water without a permit.
7. Part II.I 1 and 2 of the permit for failure to report failure of the pond liner system.

ORDER

NORTH LILY is **HEREBY ORDERED** to:

1. Conduct a ground water contamination investigation and submit a report within 60 days of receipt of this **ORDER** assessing the impact or potential impact of the wastewater releases to groundwater including the extent and potential dispersion of the contamination. The report must document whether any remedial action will be necessary to maintain ground water quality. If the assessment shows remediation efforts are necessary, the report must include a Corrective Action Plan for undertaking these efforts.
2. Submit plans and specifications and schedule for Executive Secretary Approval to restore Discharge Minimization Technology in all solution ponds and heap leach pads within 30 days

of receipt of this ORDER including Quality Assurance/Quality Control (QA/QC) specifications. The plan must address measures to be taken to prevent recurrence of liner damage.

3. Not place heap leach effluent in the overflow pond unless the liner system in the pond is restored including the overflow structure. **NORTH LILY** must obtain approval from the Executive Secretary before the overflow pond is placed back in service.
4. Immediately begin sampling and reporting of the heap leach pad effluent as required by the permit.
5. Submit, within 30 days of the receipt of this ORDER, all data that has not previously been reported since the issuance of the permit.
6. Develop and submit a water management plan within 30 days of receipt of this ORDER assessing methods to dispose of excess water from the heap leach pad.
7. Submit, within 30 days of the receipt of this ORDER, a complete time line of all closure activities planned including the beginning and conclusion of various phases of the project for Executive Secretary approval.

NOTICE

UCA 19-5-115 (1)&(2) states "...any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under Section 19-5-115(2) of the Act a second time shall be punished by a fine not exceeding \$50,000 per day.

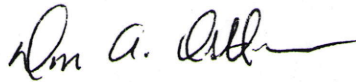
In accordance with the provisions of Part IV.4 of the permit, all information submitted shall be signed and make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Any appeal of the Notice of Violation and Order will be pursuant to *UAC R317-1-8* and *UCA 63-46b-6* through *63-46b-15*. If **NORTH LILY** contests any portion of the Notice of Violation and Order, it must do so in writing and request a hearing before the Board within thirty (30) days of the receipt of this notice. If no response and request for hearing is received, the Notice of Violation and Order shall be considered final.

Signed this 19th day of October 1999.

Utah Water Quality Board



Don A. Ostler, P.E.
Executive Secretary

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